



STATE OF CALIFORNIA

## STATE BOARD OF EQUALIZATION

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September 4, 1990

Mr. R. Gordon Young  
San Bernardino County Assessor  
Hall of Records  
172 W. 3rd Street  
San Bernardino, CA 92415-0310

Attention: Mr. Adolfo Porras, Chief Appraiser

Dear Mr. Young:

This is in response to your December 8, 1989 letter wherein you asked whether a reappraisable change in ownership has occurred when a tax exempt government agency acquires, for example, a 60 percent ownership interest in a mutual water company.

Initially, as indicated in the 1984 Assessment Practices Survey of San Bernardino County, mutual water companies are associations organized to deliver water solely to their members at cost and not for the profit of the water company. Ownership is usually held as shares of stock that are appurtenant to the land served or held by contract with the owners of the land served. Under such circumstances, it has been the opinion of the Board's Assessment Standards Division, as expressed therein, in its 1987 Assessment Practices Survey of Santa Barbara County at page 21, and in its 1989 Assessment Practices Survey of Santa Clara County at pages 16 and 17, copies enclosed, that nearly all of the taxable value of a mutual water company is included in the assessments of the served properties.\* Thus, the separate assessment of water company property when its value is included in the assessment of served properties is a form of double assessment.

In this instance, however, Mr. John Lanto of your office has advised that the shares of stock in this "mutual" water company are not appurtenant to the land served. Thus, the shares are acquired, held, and transferred much the same as shares in any corporation are, and we address your inquiries from this perspective rather than from the perspective that ownership of a mutual water company is held as shares of stock that are appurtenant to the land served.

\*The exception to this rule occurs when a company has excess capacity (has additional memberships available) or when a company owns excess property over and above the facilities necessary to serve its customers.

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- I. The land of the acquired mutual water company is within the agency's boundaries.
  - A. Would the land be 100 percent exempt from property tax?
  - B. Would the land be 60 percent exempt from property tax?
- II. The land of the acquired mutual water company is located outside of the agency's boundaries.
  - A. Would 100 percent of the land be valued in accordance with Section 11 of Article XIII?
  - B. Would 60 percent of the land be valued in accordance with Section 11 of Article XIII?

Upon the transfer of the 60 percent ownership interest in the water company, a change in ownership of the water company's real property would occur as the result of Revenue and Taxation Code section 64(c), thereby resulting in the reappraisal of the property. As the land would continue to be owned by the water company in its name and not by the government agency, the land, whether within the agency's boundaries or outside the agency's boundaries, would not be exempt from property tax as government-owned property (Situation I) or valued in accordance with Article XIII, Section 11 (Situation II).

In the past, there have been several instances in which government agencies have acquired or established corporations and attempted to secure exemption from property taxation for the corporations' real properties. In order to accomplish this, however, the property has either had to have been transferred to the government agency or resort has been had to specific legislation. See in this latter regard, for example, Revenue and Taxation Code Sections 201.1 and 201.3, which pertain only to sole ownership interests, however.

Very truly yours,



James K. McManigal, Jr.  
Tax Counsel

JKM:jd  
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Enclosures

cc: Mr. John Hagerty  
Mr. Verne Walton